

(GENERAL)

FILE NO. 245578

Recommendation

OF  
City Engineer

for

construction of a sanitary sewer system along  
the periphery of Lake Union under Res. 18168  
and financing of same.

6/5/62 - Held 1. work - up  
June 12<sup>th</sup>, 1962.

6/12/62 adopted res.

Prop. Log.

6-18-63 File JUN 4 1962

FILED  
(Res. 18168)

C. G. ERLANDSON  
COMPTROLLER AND CITY CLERK

BY W. A. Penn DEPUTY

**ACTION OF THE COUNCIL**

REFERRED	TO
JUN 4 1962	Finance Streets & Sewers
REFERRED	TO
REFERRED	TO
REPORTED	DISPOSITION
JUN 24 1963	On File
RE-REFERRED	TO
REPORTED	DISPOSITION

**REPORT OF COMMITTEE**

Mr. President:

Your

Finance and Streets & Sewers

Committee

to which was referred the within

Recommendation

would respectfully report that we have considered the same and recommend that

the same be passed as filed.

Res.

Fin.

SAS

CHAIRMAN

CHAIRMAN

(GENERAL)

FILE NO. 245578

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Rec'd. City.

6-18-63 File JUN 4 1962

FILED  
(Res. 18168)

C. G. ERLANDSON  
CONTROLLER AND CITY CLERK

BY *W. G. G. G.* DEPUTY

**ACTION OF THE COUNCIL**

REFERRED	JUN 4 1962	TO	Finance
REFERRED		TO	Streets & Sewers
REFERRED		TO	
REPORTED	JUN 24 1963	DISPOSITION	On File
AL-REFERRED		TO	
REPORTED		DISPOSITION	

**REPORT OF COMMITTEE**

Mr. President:

Your Finance and Streets & Sewers Committee

to which was referred the within recommendation

would respectfully report that we have considered the same and respectfully recommend that

the same be placed on file.

(Res. 18168)

*Dr. H. H. H.*  
Fin.  
CHAIRMAN

S&S  
CHAIRMAN

ASSISTANT CORPORATION COUNSEL

A. L. NEWBOULD  
JOHN A. LOGAN  
G. GRANT WILCOX  
GEORGE T. MCGILLIVRAY  
JOHN P. HARRIS  
CHARLES R. NELSON  
GORDON F. CRANDALL  
ARTHUR T. LANE  
JERRY F. KING  
ROBERT B. LESLIE  
JOHN A. HACKETT  
ROBERT W. FREEDMAN

THE CITY OF SEATTLE  
LAW DEPARTMENT

A.C. VAN SOELEN, CORPORATION COUNSEL  
10TH FLOOR SEATTLE MUNICIPAL BLDG

September 7, 1962

CITY PROSECUTORS  
BRUCE MACDOUGALL  
ROBERT M. ELIAS

JUNIOR ASSISTANTS  
CONRAD SMEETH  
JAMES G. LEACH

SECRETARY  
FAYE FORDE

CLAIM AGENT  
JOHN F. COOPER

Re: Proposal to finance construction of  
sewer along Lake Union by "special  
connection charge" in lieu of L.I.D.

Finance Committee  
City Council  
Seattle

Honorable Members:

Some time ago you requested that we prepare an ordinance authorizing construction of sanitary sewers on the periphery of Lake Union with Sewer Fund moneys at an estimated cost of \$1,531,750 to be reimbursed in part by "special connection" charges as recommended by the City Engineer in C. F. 245578. The City Engineer states that it is "unwise to finance the above project by means of a local improvement district" as originally contemplated, for the reasons among others that an assessment in the average amount of \$22.18 "per assessable unit" which must be charged to pay for the project, exclusive of \$624,565 for pumping stations to be paid from the Sewer Fund would exceed the special benefits to many of the properties involved; and also that such a local improvement would probably receive a protest in excess of 60% because of the high cost.

We have not prepared such an ordinance because in our opinion the attempted imposition thereby of a "special" connection charge of "\$20.00 per assessable unit of property frontage" applicable to a limited area of the city is beyond the authority granted by RCW 35.92.025 which contemplates a "reasonable (connection) charge . . . in order that such property owners shall bear their equitable share of the cost of such system" particularly where as here such special charge is far in excess of the uniform sewer connection charge imposed by Ordinance 82538 as amended; and is admittedly in excess of the special benefits accruing to the property by reason of the sewer improvement and which might therefore be invalid as in Los Angeles v. Offner, 10 Cal. Rptr. 420.

We therefore advise against an attempt by the City to impose such special connection charge under RCW 35.92.025 and

Finance Committee  
City Council  
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recommend that the city proceed by the local improvement district method, notwithstanding the practical and legal difficulties outlined by the City Engineer in C. F. 245578, or in the alternative it may of course proceed under the uniform sewer connection charge imposed by Ordinance 82538 as amended by Ordinances 89902 and 90233, which is sustainable under RCW 35.92.025 in our opinion as a reasonable and uniform charge in lieu of assessment, and which carries with it at least a presumption of special benefits.

We are therefore returning said file without the requested legislation for your further consideration.

Very truly yours,

A. C. VAN SOELEN  
Corporation Counsel

By

*Gordon F. Crandall*

GORDON F. CRANDALL  
Assistant

GFG:EM  
Enc.

c.c. City Engineer

June 14, 1962

Honorable A. C. Van Soelen  
Corporation Counsel  
City of Seattle

Dear Sir:

Attached is File No. 245578, recommendation of the City Engineer for construction of a sanitary sewer system along the periphery of Lake Union under Res. 18168 and financing of same.

Please prepare the necessary legislation to adopt this recommendation in accordance with the particulars set forth and to appropriate \$1,531,750 from the Sewer Fund for the purpose.

Very truly yours,

FINANCE COMMITTEE

J. D. Brannan, Chairman

HE  
via  
1 att.



CITY OF SEATTLE

DEPARTMENT OF ENGINEERING

ROY W. MORSE, CITY ENGINEER

MEMBER, BOARD OF PUBLIC WORKS

Gordon S. Clinton, Mayor

May 25, 1962

Honorable Gordon S. Clinton  
Mayor, City of Seattle  
Seattle, Washington

Dear Sir:

The City Council has heretofore, under Resolution No. 18168, authorized the preparation of plans, estimates and a preliminary assessment roll for the construction of a sanitary sewer system in the streets and easements constituting the periphery of Lake Union. This system of sewers is included in the plan and system of the \$7,000,000 issue of sewer revenue bonds authorized in 1959 and is also part of the Six Year Capital Improvement Program. Plans for the project have been completed by the City Engineer and approved by the Board of Public Works.

In attempting to prepare the preliminary assessment roll, the Engineering Department discovered a number of situations which, in our opinion, make it unwise to finance the project by means of a local improvement district. These are:

1. Assuming the City Council would pay the entire cost of the pumping stations, which cost is estimated at \$624,565, from the Sewer Fund, the cost per assessable unit of property frontage for the 11 separate units comprising the project would still be substantially above the cost of a normal type sanitary sewer. The rates for these units would range from \$14.65 to \$38.52 per assessable unit of property frontage. The average of all assessable units would be \$22.18. There are many valid and logical reasons for this high cost which, for the purpose of this letter, need not be discussed here. Suffice to say that, in our opinion, the high rate of assessment, when applied to the large tracts of property abutting upon and benefiting from the sewer, will produce an

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assessment on individual properties so high that substantial protest will result. The protest could exceed 60%, which fact would then require an affidavit of necessity from the Health Department and a unanimous vote of the City Council in order to order the improvement. We are reluctant to have the City Council placed in such a position.

2. Because of the high cost, there is a good possibility that an appeal would be taken to the courts on the assessment roll. We have studied our position in such an eventuality and our ability successfully to defend the assessment roll on the basis of the rule fixed by the Supreme Court in the Schmitz case. As a part of this study, we have discussed the problem with a qualified appraiser (he is an M.A.I.) who is well acquainted with values of property along the shores of Lake Union. He fully supports our position that on a substantial number of properties, particularly those which are under water and are presently being used for pleasure boat moorage or other similar types of use for which sewer service is not immediately necessary, the City would be unable to prove an immediate increase in the value of such property to the extent of the assessment.
3. In a formal opinion, the Corporation Counsel has held that the City may not assess property which, for one reason or another must employ a pump to obtain the use of a sewer, to the same degree as property which can connect by gravity. Many of the properties along the water side of the sewer installation may, at least until such properties are filled, have to resort to pumping. There are innumerable variations to this problem and to attempt to establish a definite and equitable formula for assessment purposes is seemingly impossible.
4. Because of topographical conditions, the existence of paved thoroughfares and railroad tracks, street right of way only partially filled, and the variation in location of the proposed sewer or sewers with respect to the

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abutting property, the cost of side sewer connections will vary substantially with the different locations. Again it is practically impossible to establish a definite assessment formula for adjusting the cost of such side sewers so that the sum of the cost of the sewer and side sewer connection for similar properties is the same. As a result, it will require each situation to be considered separately and such possibility is one which we are reluctant to contemplate in connection with an assessment roll.

As a result of our analysis of the above stated problems, we offer the following proposal which we recently discussed informally with the Capital Improvement Committee and obtained its approval therefor:

1. That the City construct and finance the entire sewer project, exclusive of side sewers, by an appropriation from the Sewer Fund. The total estimated cost on a cash basis is \$1,500,000.
2. That in lieu of creating a local improvement district, the ordinance authorizing said improvement provide for repayment by the imposition of a special connection fee and that for said purpose such connection fees as have heretofore been authorized by Ordinance No. 82583, as amended by Ordinances 89902 and 90233, shall not apply. We recommend that, after taking into consideration the type and value of the property which will connect to said sewer and the cost of the improvement, said special connection fee be fixed at \$20 per assessable unit of property frontage; that said fee shall apply to all property to be served by said sewer as indicated on Plan No. 777-97, Sheets 1 to 32 inclusive, which plan is on file in the office of the City Engineer; provided further that the number of assessable units of property frontage per lot, tract or parcel of land shall be computed in the manner prescribed by R.C.W. 35.44.040, which said units, for ready reference, have been indicated on said plan for each parcel of present ownership by the prefix A.U. (number).
3. As stated above, there are a number of situations which undoubtedly will prevail where the strict



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assessment of this proposed fee, when compared to the charge on other similar sized properties abutting upon this improvement, will result in inequities. We refer to the necessity of having to install pumping facilities, extra long or expensive side sewers and other similar types of circumstances. We, therefore, recommend that said ordinance contain a provision reading essentially as the one contained in Ordinance No. 90233, that "in cases where application of the foregoing formula to a particular property results in a charge which, because of unusual conditions, is in excess of charges to similar properties, the City Engineer is authorized to reduce the special connection charge to the amount charged to properties similarly situated".

4. We recommend that the provision of Section 2-A as defined in Section 1 of Ordinance No. 90233 be included in such special ordinance, with the exception that it be modified to require a down payment on the contract of 10 per cent instead of 5 per cent and that, because of the high cost of the connection fee, the period for paying the contract be increased from 40 quarterly installments (10 years) to 60 quarterly installments (15 years). In all other respects, provisions of this section would apply.
5. We are presently exploring the possibility of obtaining a grant in aid for this improvement from the Federal government. We assume on the basis of present information, that such a grant, if approved, would be limited to \$250,000. As the processing of such an application will require considerable time and as it is urgent that this improvement get under way as soon as possible, we respectfully recommend that the ordinance provide that, in the event such a grant is received, that the funds obtained therefrom be deposited in the Sewer Fund as reimbursement in part of the City's contribution to this project.

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On the basis of the total cost of \$1,531,750, the total amount, exclusive of interest, that can be recovered from sewer connection fees, is \$875,550. Of this sum, there is a possibility that we will not be able to recover all of the fee which normally would be charged under LID procedure to the Northern Pacific Railroad right of way. Assuming, however, that total recovery is a possibility, the total net contribution from the Sewer Fund would be \$656,200, which is \$31,635 more than the actual cost of the sewage pumping plants. None of these figures, of course, include any possible grant in aid from the Federal government.

The descriptions of the streets and easements to be improved are as follows:

Westlake Avenue North from 4th Avenue North to Valley Street;  
Fairview Avenue North from approximately 120 feet southwesterly of Minor Avenue North to approximately 770 feet north-easterly of Yale Avenue North;  
Fairview Avenue East from approximately 65 feet north of East Galer Street to approximately 45 feet southwesterly of East Roanoke Street, and from approximately 115 feet northeasterly of East Edgar Street to the Freeway right of way;  
Fuhrman Avenue from approximately 295 feet south of East Shelby Street to approximately 60 feet south of East Hamlin Street;  
8th Avenue North from Garfield Street to Galer Street;  
6th Avenue Northeast from Northeast Northlake Way to Northeast Northlake Place;  
Valley Street from Westlake Avenue North to approximately 75 feet easterly of Boren Avenue North;  
North Northlake Way from Waterway No. 23 North to Meridian Avenue North and from Waterway No. 19 to vacated 1st Avenue Northeast;  
Northeast Northlake Way from Northeast Northlake Place to 8th Avenue Northeast and from Eastlake Avenue Northeast to 10th Avenue Northeast;  
North Northlake Place from North Northlake Way to Wallingford Avenue North;  
Portage Bay Place from approximately 315 feet Southeasterly of East Martin Street to approxi-

Honorable Gordon S. Clinton  
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mately 380 feet southeasterly thereof and from approximately 40 feet south of East Shelby Street to approximately 210 feet south thereof;

Easements to be acquired in -

Central Freeway Right-of-way from approximately 130 feet northeasterly of East Martin Street to approximately 90 feet northerly of Fuhrman Avenue East;

Along the shore line of Lake Union from approximately 125 feet southeasterly of Eastlake Avenue East to approximately 40 feet south of East Shelby Street, from 210 feet south of East Shelby Street to Fuhrman Avenue at approximately 145 feet north of East Martin Street and from Central Freeway Right-of-way to approximately 75 feet northwesterly of Eastlake Avenue East;

Pump Stations for purposes of identification to be known as -

Aloha Street Station -	On Westlake Avenue North;
East Allison Street Station -	
Halladay Station -	On Fairview Avenue East;
East Howe Street Station -	On Westlake Avenue North;
East Lynn Street Station -	On Fairview Avenue East;
Newton Street Station -	On Fairview Avenue East;
Pump Station No. 1 -	On Westlake Avenue North;
	Near Portage Bay Place
	(near East Allison Street)
Woodlawn Avenue North -	On North Northlake Way;
Yale Avenue North -	On Fairview Avenue North;
Pump Station No. 2 -	On East Shelby Street;
Sunnyside Avenue North -	On North Northlake Way;

together with necessary force mains and emergency outfalls.

Very truly yours,

  
ROY W. MORSE  
City Engineer

PNR:mm

cc: H. E. McMorris  
H. W. Tyler  
K. M. Lowthian  
C. J. Henry

**OFFICE OF THE MAYOR - CITY OF SEATTLE**

**GORDON S. CLINTON, Mayor**

**June 4, 1962**

**The City Council  
City of Seattle**

**Honorable Members:**

**Forwarded herewith is a letter dated May 25, 1962, from the City Engineer, containing his recommendations in connection with the construction of a sanitary sewer system along the periphery of Lake Union.**

**The proposal contained in the Engineer's letter has been approved by the Capital Improvement Committee and is forwarded to you for your consideration and appropriate action.**

**Very truly yours,**

*Gordon S. Clinton*  
**Gordon S. Clinton  
Mayor**

**GSC:al  
Enc.**

**c.c. Mr. Roy W. Morse, City Engineer**

**ALL AMERICA CITY**